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Congress of the United States

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Internet Caucus
Law Enforcement Caucus
Historic Preservation Caucus

December 22, 2005

VIA FACSIMILE AND SURFACE MAIL

LTG Keith B. Alexander, USA
Director, National Security Agency
9800 Savage Road
Suite 6242
Ft Meade, Maryland, 20755-6242

Dear LTG Alexander,

My thanks for your letter of December 15, 2005 and for hosting me during my visit to NSA on December 6, 2005. I always find my visits to the agency interesting and informative.

NSA's work is very important. Throughout our country's history, in times of peace and war, we have always faced threats from enemies who have infiltrated our open society and intended to do us harm. Whether it was Nazi spies sent to conduct sabotage or religious zealots using airliners to blow up buildings, detecting and preventing threats have been part of the mission of our security forces from the beginning.

Even as we have sought to protect ourselves from enemy threats to our people, we have had an equally compelling interest: preserving the liberties of Americans, especially from an over-zealous government. Over the centuries, the techniques and technology of our enemies and of our protectors have changed, but what has not changed is the importance of protecting American citizens from intrusion in their work, their homes, their persons, or their associations without carefully reviewed, court-sanctioned approval. That has been true since the Bill of Rights was adopted, and it should be no less true today.

During the 1960's and 1970's, intelligence agencies were misused by the executive branch to conduct domestic espionage against alleged opponents of the government, including political opponents. Once those excesses became known, our country reacted with justified outrage and demanded that Congress pass laws to both preclude such actions from happening again and impose suitable legal penalties on those who violate laws prohibiting the domestic surveillance of American citizens.

In your letter, you said you hoped that all of my questions about NSA's collection authorities were answered. You will recall that I said to you explicitly that the reason for my visit was to be assured that I and my colleagues in Congress could say authoritatively and correctly that the U.S. government does not spy on Americans. I told you that cynicism among Americans about their

government is at dangerously high levels. I said that it is an important role of Congress to maintain oversight of intelligence activities on behalf of the American people.

In our December 6 meeting, you and the Agency's senior attorneys assured me that whenever the NSA intentionally targets a "U.S. person" for surveillance, the agency must obtain an order from the Foreign Intelligence Surveillance Court. While our conversation was focused on the question of the release of the names of U.S. persons who had been monitored either intentionally, through use of a FISA warrant, or inadvertently, there was no discussion of the intentional monitoring of U.S. persons without a warrant.

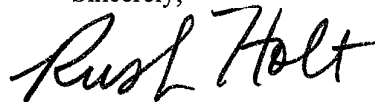
You will no doubt understand my considerable anger upon reading about the NSA domestic spying program in the *New York Times*, a program that was belatedly acknowledged by President Bush last week, a program that you failed to reveal to me during my December 6 visit.

Again, in your letter to me, you asked whether all my questions had been answered. With respect to you, sir, that question is disingenuous. If by that you are asking whether my specific questions were answered with carefully chosen words intended to mislead, I would have to say "yes, you and your staff gave me answers." But did you give me what I need to conduct the oversight that the Constitution, the National Security Act, and my constituents have charged me to do? The answer is clearly "no." Were your responses given in a spirit of full cooperation and disclosure with a member of NSA's principal Congressional oversight committee? They were not. Your responses make a mockery of Congressional oversight. At the time it did not seem necessary to remind you that a principal grievance that required that Congress wrest power from the despot George III was that "he has affected to render the military independent of and superior to the civilian power."

Let me be clear: I vehemently reject the notion that the President as Commander in Chief, or in any other capacity, had then or has now the legal or Constitutional authority to order you or any other intelligence agency to conduct such surveillance of Americans outside the bounds of the FISA statute. Accordingly, I request that you order any programs similar to those reported (of warrant-less surveillance) to be suspended until a full and thorough Congressional review of this matter is completed, and that you provide to the Congressional intelligence committees, in a forthcoming manner, all information about any related activities. Further, my consultations with counsel have left me doubtful that such activities by NSA share the protection of covert action under which the President can minimize the number of Members who are briefed.

All Americans share the President's belief in safeguarding our country. However, we cannot do this at the expense of violating the rights afforded our citizens by the Constitution, or by circumventing statutes that clearly proscribe such activities.

Sincerely,



RUSH HOLT
Member of Congress